against granting privileges to any citizen or class of citizens which may not be available to all citizens alike. *Shaw* v. *City Council of Marshalltown,* 131 Iowa 128, 104 N. W. 1121, 10 L. R. A. (N. S.) 825 and note (1905); *Goodrich* v. *Mitchell, supra;* but see *State* v. *Garbroski,* 111 Iowa 496, 82 N. W. 959, 56 L. R. A. 570, 82 Am. St. Rep. 524 (1900). Nor are such statutes void as violating the 14th Amendment to the Constitution of the United States. *Shaw* v. *City Council of Marshalltown, supra; People ex rel. Akin* v. *Loeffler,* 175 Ill. 585, 51 N. E. 785 (1898).

It has sometimes been said that veterans must be equally as well qualified as any other persons who are eligible for appointment before preference can be given to them. But upon examination of the cases, it appears that courts so holding have followed statutes which expressly provide that the veteran shall be so qualified. *Goodrich* v. *Mitchell, supra; McBride* v. *City Council of Independence,* 134 Iowa 501, 110 N. W. 157 (1907). But the veteran seeking advantage of statutes giving him preference in appointment to civil office must be qualified to fill the office or employment and to properly and efficiently discharge the duties of such office. *Brown* v. *Russell,* 166 Mass. 14, 43 N. E. 1005, 32 L. R. A. 253, 55 Am. St. Rep. 357 (1896); *Matter of Keymer,* 148 N. Y. 219, 42 N. E. 667, 35 L. R. A. 447 (1896). And to determine whether the veteran is qualified, he should be required to take the regular competitive examination, and if he passes such examination, his name should be placed on the list of those eligible for appointment; and then the preference given him in certifying his name for appointment over those who stand above him on the list without a military record. *Matter of Keymer, supra.*

The New York Court suggests in the instant case, however, that it is within the power of the legislature to provide that military experience shall be considered as a contributing factor in the results of the competitive examination. This seems sound, and is believed to be the proper rule; but the military service, of course, should not be measured in arbitrary terms, for then it would not be a contributing factor in the qualifications of the veteran applicant. Thus, in such case, the examiners should take into account the nature and kind of military service, and the length of such service, together with the efficiency of the applicant in such service.

INTOXICATING LIQUORS—TRANSPORTATION—LIQUOR CARRIED BY AUTOMOBILE DRIVER IN POCKET OF COAT NOT CARRIED IN BAGGAGE AS PERMITTED BY LAW.—A State statute permitted a traveler to carry a limited quantity of liquor in his baggage. The accused, while taking a journey in his automobile carried this quantity in the pocket of his overcoat, which he was wearing at the time of his arrest. In a prosecution for the unlawful transportation of intoxicating liquor the accused contended that this statute authorized the carrying of liquor under the traveler's personal control, without reference to the manner in which it was carried. *Held,* transportation unlawful. *Snarr* v. *Commonwealth* (Va.), 109 S. E. 590 (1921).

Since, by virtue of § 33 of the National Prohibition Act, there may be lawful possession of liquors acquired prior to the passage of that Act and which are kept for consumption by the owner and his family, it is held that the transportation of such liquors from a private warehouse to the residence of the owner does not come within the prohibition of the Act. *Street* v. *Lincoln Safe Deposit Co.,* 254 U. S. 88, 10 A. L. R. 1548,

3 VA. LAW REV. 400 (1920). This is true because under such circumstances transportation is an incident of ownership and possession, and not possession an incident of transportation. *United States* v. *Ohio Oil Co.*, 234 U. S. 548 (1914). Under the National Prohibition Act, prohibiting the transportation of intoxicating liquors, except as therein authorized, intoxicating liquor, manufactured and lawfully acquired before the adoption of the National Prohibition Act and stored in a bonded warehouse, cannot be transported from such warehouse to the owner's residence for beverage purposes. Nor does such prohibition take from property its essential attributes, in violation of the Fifth Amendment. *Corneli* v. *Moore*, 42 Sup. Ct. 176 (1922).

Intent is not a material ingredient of the offense of conveying intoxicating liquors. *Watkins* v. *State*, 13 Okl. Cr. 507, 165 Pac. 621 (1917); *Gilliland* v. *State* (Okl.), 179 Pac. 786 (1919). As to the element of intent in the illegal sale of intoxicating liquors, see 8 VA. LAW REV. 216. Hence, it is not necessary to aver in an information or indictment the intent with which liquor is transported. *McNeal* v. *State* (Okl.), 179 Pac. 943 (1919). And a person indicted for transporting liquor cannot claim ignorance of the contents of his baggage as a defense when the facts and circumstances are such as in reason ought to convey knowledge to the mind of a man of ordinary intelligence. *State* v. *Twiggs* (S. C.), 101 S. E. 663 (1919). But the innocence of the accused of any participation in the transportation is a valid defense. *Golpi* v. *State* (Okl.), 174 Pac. 288 (1918). In the absence of suspicious appearances or circumstances, an express carrier is neither bound to know, nor authorized to find out, as a condition of receiving it, what a package contains that is offered for carriage; and, hence, before there can be criminal liability on account of the intoxicating character of the contents of a package, grounds for knowledge must be shown. *State* v. *Goss*, 59 Vt. 266, 9 Atl. 829, 59 Am. Rep. 706 (1886). As to the liability of a carrier for transporting intoxicating liquors, see note 46 L. R. A. 417.

A conveyance of liquor from one room in a private residence to another room in the same residence is not the conveyance from one place within the State to another place therein, within the meaning of the prohibition law. *De Graff* v. *State*, 2 Okl. Cr. 519, 103 Pac. 538 (1909). However, a conveyance from one point upon a public highway to another point upon the same highway 600 feet distant constitutes an illegal conveyance from place to place. *Jentho* v. *State* (Okl.), 200 Pac. 251 (1921).

Applying, in part, the principle of the instant case another holding was recently made to the effect that the transportation of liquor, not in personal baggage, in an automobile to be drunk along the road by the occupants of the car is clearly unlawful. *Thacker* v. *Commonwealth* (Va.), 108 S. E. 559 (1921). But the occupant of an automobile who takes a drink from a bottle of whisky handed him by the driver, and which is being carried in violation of law, is himself not guilty of transporting liquor. *Hitt* v. *Commonwealth* (Va.), 109 S. E. 597 (1921).

The recent case of *Tutton* v. *State* (Ga.), 110 S. E. 455 (1922), construing a State statute prohibiting the transportation of intoxicating liquor and providing that any vehicle used in conveying such liquor shall be subject to seizure and condemnation is of interest in this connection. In

this case the court held that a vehicle is subject to condemnation only, when in addition to conveying such liquor, it is used for the purpose of transporting such liquor; and that it is necessary in a particular case to ascertain the circumstances surrounding the particular transportation of liquor, and to determine therefrom whether or not the vehicle at the time is being used for the purpose of transporting such liquor. The evidence in this case was that the owner of an automobile was travelling therein along a public road, having in his pocket a quart bottle containing whiskey, there being no other whiskey in the car. Such evidence was held, in the absence of other evidence, either direct or circumstantial, that he was using the automobile on the particular occasion for the purpose of conveying the liquor, insufficient to establish as a matter of law that the car was being used by the owner in conveying the liquor, and that it was therefore subject to condemnation. The theory upon which the decision seems to rest is that where such a small insignificant quantity is being transported as not to require the use of an automobile for the purpose of its conveyance, its mere possession by the person travelling in the automobile does not, without more, demand or compel the inference that the automobile was being used in conveying such liquor. But the court was careful to point out that the mere fact that the liquor actually transported in the vehicle was on the person of the occupant of the vehicle is not the factor determining that the vehicle was not used in conveying the liquor. The court approved the earlier case of *Crapp* v. *State*, 23 Ga. App. 257, 98 S. E. 174 (1919), where it was held that where, with the knowledge of the owner, a car was used in carrying liquor in violation of the terms of the prohibition law, the owner would not be excused from condemnation of his car by reason of the fact that the vehicle was not then and there being used for the primary purpose of conveying liquor, but that the liquor was being carried incidentally and only because the vehicle was at the time being used for another and different purpose. In the earlier case the defendant had a quart of whiskey in a grip in his automobile, and was travelling along the road for the purpose of going to visit some of his people, having the whiskey along with him for his own use, and not making the trip for the purpose of carrying the whiskey anywhere.

See 8 VA. LAW REV. 59 for a discussion of condemnation of vehicles transporting liquor.

SPECIFIC PERFORMANCE—ELEVATOR SERVICE—DAMAGES MAY BE AWARDED IN LIEU OF PERFORMANCE.—The plaintiff entered into a contract with the defendant whereby the latter agreed to erect and operate an elevator in the defendant's building for the common use of both parties. The defendant failed to furnish the elevator service under the provisions of the contract. The plaintiff sought a decree of specific performance to compel the defendant to furnish the elevator service according to the terms of the contract. *Held*, plaintiff may recover damages in lieu of specific performance. *Nakdimen* v. *Atkinson Improvement Co.* (Ark.), 233 S. W. 694 (1921).

The first principles of the remedy of specific performance, it must be remembered, is that the court exercises discretionary power in granting or refusing a decree for specific performance. Courts of equity go beyond the equities of the case in refusing specific performance of a